

Notice of Allowability

Application No.

08/697,542

Examiner

Scott Beliveau

Applicant(s)

BLOCK, ROBERT S.

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 13 October 2006.
2. ☒ The allowed claim(s) is/are 27 and 31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 4-3-2003
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 03 April 2003 was filed after the mailing date of the Non-Final Rejection on 26 September 2002. It is unclear to the present examiner if the IDS had been considered by Examiner Srivastava. Given that the submission was in compliance with the provisions of 37 CFR 1.97, the information disclosure statement has been re/considered by the examiner.

Election/Restrictions

2. Applicant's election of Group I in the reply filed on 13 October 2006 is acknowledged. Applicant only traversed the further restriction between species with Group 2, but did not the further restriction between Groups I and II. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement between Groups I and II and further authorized the examiner to cancel the claims of Group II, the election has been treated as an election without traverse for Group I (MPEP § 818.03(a)).
3. This application is in condition for allowance except for the presence of claims 34, 45, 47, and 61-66 directed to an invention non-elected without traverse. Accordingly, claims 34, 45, 47, and 61-66 have been cancelled in accordance with the applicant's authorization received in the response to the Restriction Requirement received on 13 October 2003.

Allowable Subject Matter

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4. Claims 27 and 31 are allowed.
5. The following is an examiner's statement of reasons for allowance:

Giving full faith and credit to Examiner Srivastava, the art of record taken either singly or in combination fails to teach and/or suggest the claimed subject matter of claims 27 and 31 as indicated in the Non-Final Rejection by Examiner Srivastava on and prior to 20 May 2004. In particular, the art of record fails to teach or suggest the claim taken as a whole including the particular step of 'indicating whether the modification of the value associated with the local category label is to be temporary or permanent' when viewed in light of the specification (IA: Page 53, Lines 1-13).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SEB

November 3, 2006

Scott Beliveau
Primary Examiner
Art Unit 2623